

### **REMARKS**

In the foregoing amendments, claims 1-49 are canceled without prejudice, disclaimer, or waiver; and claims 50-98 are added to further define and/or clarify the scope of the invention. Claims 50-98 are now pending in the present application.

#### **I. Response to 35 U.S.C. §102 Rejection**

Claims 1-6 and 8 were rejected under 35 U.S.C. §102(b) as allegedly being anticipated by *Futch* (U.S. Reissue Patent No. 29,767). Because these claims have been canceled by amendment herein, this rejection is considered moot. Regarding new claims 50-98, Applicant asserts that *Futch* does not disclose each and every element of independent claims 50, 66, 87, and 95.

##### **A. Claim 50**

Claim 50 is directed to a food conveyor system that includes, among other things, a conveying system *“having a customer section and a food service section.”* *Futch* fails to disclose this claimed feature. Instead, *Futch* discloses an apparatus, as shown for example in Fig. 2, which is designed for the preparation of food portions on meal trays by serving attendants only. There is no “customer section” as claimed. In fact, *Futch* recites in col. 6, lines 1-2 that serving attendants will take their positions around the entire perimeter of the cabinet so that they may place the different food portions for which they are responsible. After the serving attendants prepare the trays, the trays will be removed by an attendant (col. 6, lines 20-21) and placed in a suitable transport container for conveyance to the hospital patient. It should be evident, therefore, that the tray conveyor assembly 17 does not include a customer section as claimed.

Not only this, but claim 50 also recites that the food service section includes an entry point, an exit point, and *“a plurality of food processing conveyor paths extending between the entry point and the exit point.”* *Futch* fails to disclose this claimed feature as well. In contrast to claim 50, the tray conveyor assembly 17 of *Futch* includes a single uniform loop, not a plurality of conveyor paths, as claimed, extending between the two points along a conveyor section.

Also, *Futch* fails to disclose *“means for diverting... each of the bases to one of the plurality of food processing conveyor paths”* as claimed. Of course, since

*Futch* does not teach a plurality of conveyor paths, as mentioned above, it logically follows that *Futch* also does not include means for diverting bases to these non-existent conveyor paths. Likewise, *Futch* also fails to disclose “*means for rejoining...*” as claimed.

*Futch* further fails to include at least one conveyor path that includes “*means for adjusting the temperature of a serving of food...*” Instead, *Futch* merely provides a conveyor assembly that conveys trays in a single loop. Although *Futch* discloses hot wells 56 and top metal cold surfaces 64 (see Fig. 2), these elements are not part of the conveyor assembly, but instead are located below the conveyor, at an appropriate height for the serving attendants.

For at least these reasons, Applicant asserts that claim 50 is allowable over *Futch* and therefore respectfully requests that the rejection be withdrawn. Also, dependent claims 51-65 are also believed to be allowable for at least the reason that they depend from independent claim 50.

#### **B. Claim 66**

Claim 66 is directed to a food management and inventory system for a sushi train restaurant, wherein a plurality of bases supporting food servings are conveyed along a closed loop conveyor. It should be pointed out that the conveyor has “*a customer section and a food service section.*” *Futch* fails to disclose this claimed feature. Instead, *Futch* discloses an apparatus that is designed for the preparation of food portions on meal trays by kitchen attendants only. *Futch* does not disclose a “customer section” as claimed. In fact, *Futch* recites in col. 6, lines 1-2 that serving attendants will take their positions around the entire perimeter of the cabinet so that they may place the different food portions for which they are responsible. After the serving attendants prepare the trays, the trays will be removed by an attendant (col. 6, lines 20-21) and placed in a suitable transport container for conveyance to the hospital patient. It should be evident, therefore, that the tray conveyor assembly 17 does not include the claimed customer section.

Claim 66 also recites that each of the bases is “*individually electronically identifiable.*” *Futch* is completely silent concerning identifying bases or tray carriers. The apparatus of *Futch* includes a conveyor assembly that simply conveys the tray in a loop without any electronic identification of the individual bases or trays.

For at least these reasons, Applicant asserts that claim 66 is allowable over *Futch* and therefore respectfully requests that the rejection be withdrawn. Also, dependent claims 67-86 are also believed to be allowable for at least the reason that they depend from independent claim 66.

**C. Claim 87**

Independent claim 87 is directed to a method of managing food supply and food inventory in a system where food servings on bases are conveyed along a conveyor having ***“a customer section and a food service section.”*** *Futch* fails to disclose this claimed feature. Instead, *Futch* discloses an apparatus, e.g. as shown in Fig. 2, which is designed for the preparation of food portions only without any “customer section” as claimed. For instance, *Futch* teaches instead that serving attendants will take their positions around the entire perimeter of the cabinet so that they may place the different food portions for which they are responsible (col. 6, lines 1-2). After the serving attendants prepare the trays, the trays will be removed by an attendant (col. 6, lines 20-21) and placed in a suitable transport container for conveyance to the hospital patient. From this, it is evident that the tray conveyer assembly 17 of *Futch* does not include a customer section as claimed.

Claim 87 further recites that the bases are ***“individually electronically identifiable.”*** *Futch* is completely silent concerning identifying bases or tray carriers. The apparatus of *Futch* includes a conveyor assembly that simply conveys the tray in a loop without any electronic identification of the individual bases or trays.

The method of claim 87 also includes ***“entering information into a computer regarding each food serving introduced to the conveyor, the information including a base identification number and the type of food serving on the base.”*** *Futch* fails to disclose a computer, entering information into a computer, information regarding the type of food serving being introduced to the conveyor, or information including a base identification number, as claimed. *Futch* also fails to provide a method including ***“using at least one sensor... to identify all the bases currently on the conveyor”*** and fails to use any type of sensor whatsoever. *Futch* also fails to disclose ***“sending the information... to the computer”*** and ***“performing an inventory...”***

For at least these reasons, Applicant asserts that claim 87 is allowable over *Futch* and therefore respectfully requests that the rejection be withdrawn. Also,

dependent claims 88-94 are also believed to be allowable for at least the reason that they depend from independent claim 87.

**D. Claim 95**

Independent claim 95 is directed to an automated food handling system comprising means for transporting food servings along a closed loop. The food handling system also includes ***“at least one treatment module coupled in parallel to the transporting means.”*** *Futch* fails to disclose this claimed feature and merely teaches an assembly with a closed loop, but no additional treatment modules coupled in parallel, as claimed.

Claim 95 also includes ***“means for sensing and recognizing the type of food servings being transported...”*** Again, *Futch* fails to disclose this feature or any other type of sensing means, but discloses instead a simple mechanical conveyor assembly with no particular intelligent sensing means.

Claim 95 also includes ***“means for automatically diverting the food servings from the transporting means to one of the treatment modules...”*** Since *Futch* does not include any treatment modules coupled in parallel to the transporting means, as mentioned above, *Futch* consequently fails to also teach the claimed diverting means for diverting to such treatment modules.

For at least these reasons, Applicant asserts that claim 95 is allowable over *Futch* and therefore respectfully requests that the rejection be withdrawn. Also, dependent claims 96-98 are also believed to be allowable for at least the reason that they depend from independent claim 95.

**E. Requirements for 35 U.S.C. §102 Rejection**

A proper rejection of a claim under 35 U.S.C. §102 requires that a single prior art reference disclose each and every element of the claim. For anticipation, there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. Since *Futch* does not teach each and every of the claimed invention, as discussed above, this reference fails to meet the requirements for a proper 35 U.S.C. §102 rejection. Therefore, Applicant respectfully requests that the Examiner kindly withdraw the rejections based on this reference.

## II. Response to 35 U.S.C. §103 Rejection

### A. Futch

Claim 7 was rejected under 35 U.S.C. §103 as allegedly being unpatentable over *Futch*. Since claim 7 has been canceled, this rejection is now considered moot. With respect to new claims 50-98, Applicant respectfully asserts that *Futch* fails to disclose each element of the claims, as discussed in detail above. In addition, *Futch* further fails to provide any motivation to modify or combine the teachings therein in such a way to lead one of ordinary skill to the claim elements of the present application. Any such suggestion to alter the reference must be found in the prior art itself and not based on Applicant's own teachings.

### B. Futch in view of the Clothier et al. Patents

Claims 8-14 were rejected under 35 U.S.C. §103 as allegedly being unpatentable over *Futch* in view of *Clothier et al.* (U.S. Patent No. 6,632,585) and further in view of *Clothier et al.* (U.S. Patent No. 6,664,520). Again, cancellation of these claims renders this rejection moot, but with respect to the new claims 50-98, Applicant respectfully asserts that the combination of references fails to teach or suggest the claims of the present application.

Specifically, *Clothier et al.* '585 and *Clothier et al.* '520 fail to disclose a conveying system having ***"a customer section and a food service section."*** In fact, the *Clothier et al.* patents do not even include a conveying system of any kind for conveying bases that support food servings. Instead, the *Clothier et al.* patents merely include tables with magnetic induction charging stations, but no means for conveying food serving bases. Therefore, *Clothier et al.* fail to overcome the deficiencies of *Futch* with respect to the claimed feature of a customer section of a conveying system.

Furthermore, the *Clothier et al.* patents, which fail to teach any type of conveying system, are therefore unable to provide any useful teachings regarding several claim elements, these teachings being absent from *Futch* as mentioned above. Particularly, the *Clothier et al.* also fails to teach or suggest the following claim elements taken from the independent claims of the present application: ***"means for diverting..."*** (claim 50), ***"means for rejoining..."*** (claim 50), ***"wherein at least one food processing conveyor path includes means for adjusting the temperature of a***

*serving of food...*” (claim 50), *“a closed loop conveyor having a customer section”* (claim 66), *“wherein each of the bases is individually electronically identifiable”* (claim 66), *“entering information into a computer regarding each food serving introduced to the conveyor, the information including a base identification number and the type of food serving on the base,”* (claim 87), using at least one sensor at the food service section of the conveyor *“to identify all the bases currently on the conveyor”* (claim 87), *“sending the information related to the identity of the bases currently on the conveyor to the computer”* (claim 87), *“performing an inventory to determine the food servings currently on the conveyor...”* (claim 87), *“at least one treatment module coupled in parallel to the transporting means”* (claim 95), *“means for sensing and recognizing the type of food servings being transported on the transporting means”* (claim 95), and *“means for automatically diverting the food servings from the transporting means to one of the treatment modules...”* (claim 95).

**C. Futch in view of the Clothier et al. Patents and Thomas et al.**

Claims 15-49 were rejected under 35 U.S.C. §103 as allegedly being unpatentable over *Futch* in view of *Clothier et al.* (U.S. Patent No. 6,632,585) and *Clothier et al.* (U.S. Patent No. 6,664,520) and further in view of *Thomas et al.* (U.S. Patent Application No. 2003/00066281). Because of the cancellation of these claims, this rejection has been rendered moot. However, concerning new claims 50-98, Applicant respectfully assert that these references, taken alone or in combination, fail to teach or suggest the claimed invention.

Specifically, *Futch* and the *Clothier et al.* patents fail to teach or suggest several of the claimed elements in each of the independent claims 50, 66, 87, and 95, as mentioned above. Furthermore, *Thomas et al.* does not overcome the deficiencies of these references since it also fails to teach or suggest the following elements present in the independent claims of the present application: “means for diverting...”, “means for rejoining...”, “conveyor path includ[ing] means for adjusting the temperature,” “each of the bases [being] individually electronically identifiable,” “entering information into a computer regarding each food serving introduced to the conveyor, the information including a base identification number and the type of food serving on the base,” using a sensor at a section of the conveyor “to identify all the bases

currently on the conveyor,” “sending the information related to the identity of the bases currently on the conveyor to the computer,” “performing an inventory to determine the food servings currently on the conveyor...”, “at least one treatment module coupled in parallel to [a] transporting means,” “means for sensing and recognizing the type of food servings being transported on the transporting means,” and “means for automatically diverting the food servings from the transporting means to one of the treatment modules...”

Applicant therefore asserts that independent claims 50, 66, 87, and 95 are allowable over the combination of references cited in the Office Action for at least the reasons stated above. Also, dependent claims 51-65, 67-86, 88-94, and 96-98 are believed to be allowable for at least the reason that these claims depend from allowable independent claims 50, 66, 87, and 95. Furthermore, Applicant contends that the dependent claims include additional features that are not taught or suggested by the prior art references of record. Withdrawal of all claim rejections is therefore respectfully requested.

The PTO has the burden under §103 to establish a *prima facie* case of obviousness. It can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Under section 103, teachings of references can be combined only if there is some suggestion or incentive to do so.

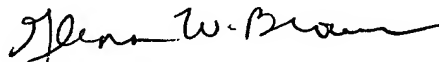
### **III. Prior Art Made of Record**

The prior art made of record has been considered, but is not believed to affect the patentability of the presently pending claims.

**CONCLUSION**

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 50-98 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned at (770) 933-9500.

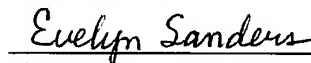
Respectfully submitted,

  
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